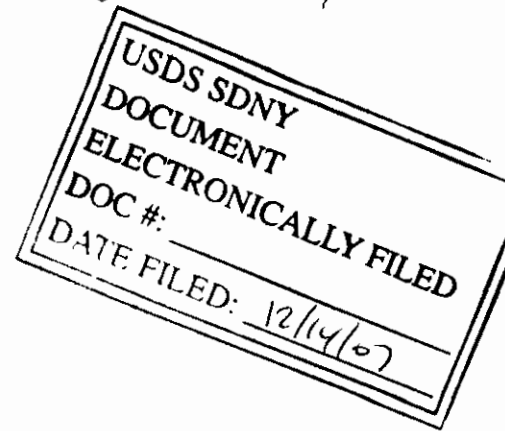


Sullivan, J



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
THE NEW YORK TIMES COMPANY and
PAUL VON ZIELBAUER,

Plaintiffs, _

v.

UNITED STATES DEPARTMENT OF
DEFENSE and DEPARTMENT OF THE
ARMY,

Defendants.
----- X

ECF CASE

07 Civ. 7481 (RJS)

STIPULATION AND ORDER

WHEREAS on March 2, 2007, Paul von Zielbauer, submitted a request pursuant to the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA") on behalf of the New York Times (collectively "plaintiffs") to the United States Department of the Army (the "Army"), seeking Reports of Investigations (the "ROIs") maintained by the U.S. Army Crime Records Center ("USACRC") of four named soldiers (the "FOIA request");

WHEREAS the ROIs requested by plaintiffs relate to the investigations conducted by the U.S. Army Criminal Investigation Command ("CID") of alleged criminal activity by the four named soldiers in the FOIA request;

WHEREAS the four named soldiers were ultimately convicted of the crimes investigated by the Army that are the subject matter of the ROIs;

WHEREAS the Army's general practice with respect to ROIs released in response to FOIA requests is to redact any information exempt from disclosure pursuant to FOIA including, but not limited to, identifying information related to the subjects of the ROIs; and

WHEREAS because the FOIA request identified the ROIs by naming the soldiers

investigated, releasing the ROIs and redacting identifying information related to the subjects would not protect the identity of the subjects;

WHEREAS the subjects of the ROIs have not consented to the release of the ROIs;

WHEREAS on March 5, 2007, USACRC denied the request and withheld the ROIs in their entirety pursuant to 5 U.S.C. §§ 552(b)(6) & (7)(C) ("FOIA Exemptions 6 and 7(C)") and the Privacy Act, 552 U.S.C. § 552a; and

WHEREAS plaintiffs commenced this action by filing a summons and complaint on August 23, 2007, alleging, inter alia, that the Army improperly withheld the ROIs pursuant to FOIA Exemptions 6 and 7(C);

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. The public interests outweigh the privacy interests of the subjects of the ROIs requested by plaintiffs. See Department of Justice v. Reporters Comm. for Freedom of Press, 489 U.S. 749, 776 (1989).
2. The Army shall respond to the FOIA request by releasing any narrative portions of the ROIs and attached CID originated exhibits that are not subject to any FOIA exemptions by February 1, 2008.
3. With respect to exhibits that did not originate with CID and exhibits specifically designated in the ROIs as "not attached," the Army will not review such exhibits for potential release pursuant to the FOIA request unless (1) such exhibits are "records" as defined by the FOIA, and (2) the New York Times requests such records by March 1, 2008.
4. Plaintiffs reserve their right to challenge before this Court any withholding of information pursuant to Paragraphs 2 and 3 of this Stipulation and Order or any delay in

conducting the FOIA review set forth in those paragraphs.

5. The terms of this Stipulation and Order apply only to the FOIA request at issue in this case and have no legal significance with respect to any other FOIA requests.

6. Each party shall bear its own costs and attorney's fees to date with respect to plaintiff's claims regarding the FOIA request.

7. This Court shall retain jurisdiction over all matters concerning this Stipulation and Order.

Dated: New York, New York
December 12, 2007

THE NEW YORK TIMES COMPANY
LEGAL DEPARTMENT
Attorneys for Plaintiffs

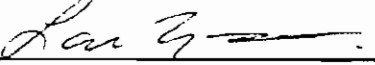
By: 

DAVID E. McCRAW (212-7708)
620 Eighth Avenue
New York, NY 10018
Telephone No.: (212) 556-4031
mccrad@nytimes.com

Dated: New York, New York
December 12, 2007

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
Attorney for Defendants

By:


LARA K. ESHKENAZI
Assistant United States Attorney
86 Chambers Street, 3rd floor
New York, New York 10007
Telephone No.: (212) 637-2758
Lara.Eshkenazi@usdoj.gov

SO ORDERED:


UNITED STATES DISTRICT JUDGE